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•• REMARKS/ARGUMENTS ••

The Official Action of May 16, 2006 has been thoroughly studied. Accordingly, the changes presented herein for the application, considered together with the following remarks, are believed to be sufficient to place the application into condition for allowance.

By the present amendment, Claim 8 has been changed to be dependent on claim 7.

In addition, new dependent claims 11-18 have been added which are directed to further features of applicants' invention which are fully supported in the original specification.

Entry of the changes to the claims is respectfully requested.

Claims 1-4 and 6-18 are pending in this application.

Claims 1 and 6-9 were previously provisionally rejected under the doctrine of obviousness-type double patenting over claim 29 of co-pending application Serial No. 10/530,096.

In response to this rejection, applicants are submitting wherewith a Terminal Disclaimer in which the terminal portion of any patent issuing on the present application which would extend beyond any patent issuing on co-pending application Serial No. 10/530,096 is disclaimed.

Claims 1-4, 6 and 10 stand rejected under 35 U.S.C. §102(b) as being anticipated by JP 200-154255 to Fujita et al.

Claims 7-9 stand rejected under 35 U.S.C. §103(a) as being unpatentable over International Publication No. WO 01/33103 to Bar-Lev in view of Fujita et al.

For the reasons set forth below, it is respectfully submitted that each of the pending claims distinguishes over the prior art or record and therefore, each of the outstanding prior art rejections should properly be withdrawn.

Favorable reconsideration by the Examiner is earnestly solicited.

The Examiner has relied upon Fujita et al. as disclosing:

> ....a material for vibration-absorbable mounts comprising A) an acrylic polymer containing at least one alkenyl group, B) a hydrosilyl group-containing compound and a hydrosilylation catalyst. ([0005],[0078], [0086] and Examples) Component A) can be derived from ethyl acrylate, n-butyl acrylate, 2-methoxyethyl acrylate and 1,7-octadiene. ([0008], [0032] and Examples) The molecular weight distribution of Component A) can be 1.8 or less. ([0010])

The Examiner states:

> Since JP255's composition is substantially the same as that of Applicants', both should possess the same properties, such as loss tangent, etc. Since PTO docs not have proper means to conduct experiments, the burden of proof is now shifted to Applicants to show otherwise. In re Best, 195 USPQ 430 (CCPA 1977). The hardness of the cured material is exemplified in [0094]. A filler can be used. ([0081]) For Claim 6, the material contains an article that is in contact with audio devices, etc. ([0086])

Fujita et al. does not teach a material that has a loss tangent (tan δ) of at least 05.

Fujita et al. appears to teach "compounding an alkenylated vinyl polymer and a hydrosilated compound.

Applicants claim a comprises a cured product of a composition comprising (A) an acrylic polymer having at least one alkenyl group capable of undergoing hydrosilylation reaction, (B) a hydrosilyl group-containing compound and (C) a hydrosilylation catalyst.

It seems that whereas Fujita et al. compounds an alrcady hydrosilated compound with the alkenylated vinyl polymer, applicants use an acrylic polymer that is capable of undergoing hydrosilylation and combines the acrylic polymer with a hydrosilyl group-containing compound and a hydrosilylation catalyst.

The resulting vibration-absorbing material has a loss tangent (tan δ) of at least 05., and out gassing property of not more than 40 μg/g (measured as disclosed and claimed) and a lack of metal corrosion.

Since the composition of Fujita et al. appears to be different from that claimed by applicants, the Examiner has not established a basis for relying upon the holding in *In re Best* (195 USPQ 430 (CCPA 1977)).

It appears that the Examiner is relying upon an English translation of the Fujita et al. reference inasmuch as the Examiner cites specific paragraph numbers.

The undersigned does not have a copy of such English translation of Fujita et al. and therefore is unable to confirm or challenge the Examiner's reliance upon Fujita et al. or the accuracy of any translation thereof.

Accordingly, in order to avoid prejudicing applicants' right and ability to fully consider and rebut Fujita et al., as relied upon by the Examiner, the undersigned requests that the Examiner furnish the undersigned with any English translation of Fujita et al. which the Examiner is relying upon.

Inasmuch as the Examiner has relied upon *In re Best* (195 USPQ 430 (CCPA 1977)) as holding that the burden in on applicants to show that Fujita et al. does not teach a compound that has a loss tangent (tan δ) of at least 0.5, applicants note that *In re Best* involves a process for preparing a hydrolytically-stable zeolitic aluminosilicate which process recites the step of:

> ...cooling the steamed zeolite to a temperature below 350°C at a rate sufficiently rapid that the cooed zeolite exhibits an X-ray power diffraction pattern having the d-spacing corresponding to the Miller Indices, hkl, of 331 at least as strong in intensity as that corresponding to the Miller Indices 533, prior to any post-streaming ion exchange treatment.

The CCPA held that the prior art (Hansford) taught a process in which:

> ...calcinated zeolite catalyst would necessarily be cooled to facilitate subsequent handling.

The CCPA held that the Examples in appellants' specification which involved cooling rates did not include comparison data of X-ray diffraction patterns. Therefore, the data was found to be insufficient to rebut the Examiner's position.

The holding in *In re Best* does not support the Examiner's position in the present situation, because there is no basis upon which to find that the compound of Fujita et al. has a loss tangent (tan δ) of at least 05., let alone the out gassing property of not more than 40 μg/g (measured as disclosed and claimed) and a lack of metal corrosion.

As noted above, Fujita et al. teaches the use of an already hydrosilated compound that is compounded with the alkenylated vinyl polymer.

In contrast, applicants use an acrylic polymer that is capable of undergoing hydrosilylation and combines the acrylic polymer with a hydrosilyl group-containing compound and a hydrosilylation catalyst.

There is no teaching within Fujita et al. and no basis on the record to hold that the compounds of Fujita et al. inherently have the loss tangent (tan δ) required by applicants' independent claim.

The Examiner's further reliance upon Bar-Lev does not address or overcome the differences between the claimed invention and Fujita et al.

Based upon the above distinctions between the prior art relied upon by the Examiner and the present invention, and the overall teachings of prior art, properly considered as a whole, it is respectfully submitted that the Examiner cannot rely upon the prior art as required under 35 U.S.C. §102 as anticipating applicants' claimed invention.

Moreover, the Examiner cannot rely upon the prior art as required under 35 U.S.C. §103 to establish a prima facie case of obviousness of applicants' claimed invention.

It is, therefore, submitted that any reliance upon prior art would be improper inasmuch as the prior art does not remotely anticipate, teach, suggest or render obvious the present invention.

It is submitted that the claims, as now amended, and the discussion contained herein clearly show that the claimed invention is novel and neither anticipated nor obvious over the teachings of the prior art and the outstanding rejections of the claims should hence be withdrawn.

Therefore, reconsideration and withdrawal of the outstanding rejections of the claims and an early allowance of the claims is believed to be in order.

It is believed that the above represents a complete response to the Official Action and reconsideration is requested.

If upon consideration of the above, the Examiner should feel that there remain outstanding issues in the present application that could be resolved; the Examiner is invited to contact applicants' patent counsel at the telephone number given below to discuss such issues.

To the extent necessary, a petition for an extension of time under 37 CFR §1.136 is hereby made. Please charge the fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account No. 12-2136 and please credit any excess fees to such deposit account.

Respectfully submitted,

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